



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION III
2443 WARRENVILLE ROAD, SUITE 210
LISLE, IL 60532-4352

MAY 29 2014

Kenneth E. Troy
Radiation Safety Officer
Construction Materials Testing Group, LLC
d/b/a CMTG, LLC
5318 Blue Banks Avenue
Kansas City, MO 64130

Dear Mr. Troy:

By the application dated April 2, 2014, Superior Bowen Asphalt Company, LLC submitted to the U. S. Nuclear Regulatory Commission (NRC) a request for consent to direct license transfer of NRC Materials License No. 24-26162-01. Based on the information provided, we understand this transaction resulted in control of Superior Bowen Asphalt Company, LLC being directly transferred to Construction Materials Testing Group, LLC d/b/a CMTG, LLC. We further understand that this transfer did not result in any change to the licensed materials, locations of use, and the radiation safety program. Enclosed is Amendment No. 9 in accordance with your request. Please note that the changes made to your license are printed in **bold font**.

Based on the above understandings and as more fully detailed in the enclosed NRC staff's Safety Evaluation Report which documents the NRC staff's review of the request, the NRC consents to the direct transfer of control.

The transferee Construction Materials Testing Group, LLC d/b/a CMTG, LLC should note their new responsibility and liability as an NRC licensee. Specifically, responsibility is emphasized with regard to any ongoing NRC inspection and enforcement issues, investigations, facility decontamination and decommissioning funding resources. Please be advised, change of ownership/control cannot be transferred without **prior** written consent from the NRC (10 CFR 30.34 (b)). A copy of this regulation may be found on the NRC website at <http://www.nrc.gov/reading-rm/doc-collections/cfr/part030/part030-0034.html>. Also, please see NUREG-1556, Volume 15, "Consolidated Guidance About Materials Licenses - Program-Specific Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Material Licenses" for the guidance regarding the change of ownership/control. A copy of this guidance may be found on the NRC website at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1556/v15/>.

In addition, you did not list a location of use located 11030 Hickman Mills Drive, Kansas City, Missouri, in your application. This location is currently listed on your license. In the future, if you would like to remove this location from your license, please submit an amendment request including a confirmation that all licensed material has been removed and transferred to other authorized location and a copy of the last leak test for each sealed source used at this location.

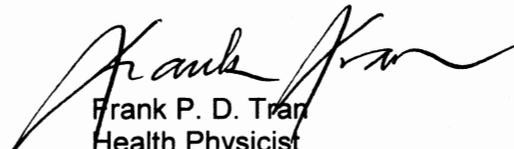
Please review the enclosed document carefully and be sure that you understand all conditions. If there are any errors or questions, please notify the U.S. Nuclear Regulatory Commission, Region III office at (630) 829-9887 so that we can provide appropriate corrections and answers.

You will be periodically inspected by NRC. Failure to conduct your program in accordance with NRC regulations, license conditions, and representations made in your license application and supplemental correspondence with NRC will result in enforcement action against you. This could include issuance of a notice of violation, or imposition of a civil penalty, or an order suspending, modifying or revoking your license as specified in the General Statement of Policy and Procedure for NRC Enforcement Actions. Since serious consequences to employees and the public can result from failure to comply with NRC requirements, prompt and vigorous enforcement action will be taken when dealing with licensees who do not achieve the necessary meticulous attention to detail and the high standard of compliance which NRC expects of its licensees.

The NRC's Safety Culture Policy Statement became effective in June 2011. While a policy statement and not a regulation, it sets forth the agency's *expectations* for individuals and organizations to establish and maintain a positive safety culture. You can access the policy statement and supporting material that may benefit your organization on NRC's safety culture Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/safety-culture.html>. We strongly encourage you to review this material and adapt it to your particular needs in order to develop and maintain a positive safety culture as you engage in NRC-regulated activities.

In accordance with Title 10 Code of Federal Regulations 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,



Frank P. D. Tran
Health Physicist
Materials Licensing Branch

License No. 24-26162-01
Docket No. 030-31561

Enclosures: Amendment No. 09
Safety Evaluation Report

**SAFETY EVALUATION REPORT
PROPOSED CHANGE OF CONTROL FOR BYPRODUCT MATERIALS LICENSE
NUMBER 24-26162-01, Superior Bowen Asphalt Company, LLC**

DATE: 05/27/2014

DOCKET NO.: 030-31561

LICENSE NO.: 24-26162-01

LICENSEE: Superior Bowen Asphalt Company, LLC
11030 Hickman Mills Drive, Kansas City, MO 64134

TECHNICAL REVIEWER: Frank Tran

SUMMARY AND CONCLUSIONS

Superior Bowen Asphalt Company, LLC ("Licensee"), is authorized by NRC License 24-26162-01 for the possession and use of byproduct material for measurement of physical properties of construction material. The U.S. Nuclear Regulatory Commission (NRC) staff reviewed a request for consent to a direct license transfer submitted by the Licensee that will result from a merger of the QAQC laboratory of Superior Bowen Asphalt Company, LLC into Construction Materials Testing Group, LLC d/b/a CMTG, LLC. As of January 1, 2014, the Licensee becomes a department of Construction Materials Testing Group, LLC d/b/a CMTG, LLC. The direct transfer of control is described in Agency Documents Access and Management System (ADAMS) accession number ML14092A277.

The request for consent was reviewed by NRC staff for a direct change in control of a 10 CFR Part 30 license using the guidance in NUREG 1556, Volume 15, "Consolidated Guidance About Materials Licenses - Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses," dated November 2000. The NRC staff finds that the information submitted by the Licensee sufficiently describes and documents the transaction and commitments made by the Licensee and Construction Materials Testing Group, LLC d/b/a CMTG, LLC ("Transferee").

As required by 10 CFR 30.34 and section 184 of the Atomic Energy Act of 1954, as amended (the Act), NRC staff has reviewed the application and finds that the proposed change in control is in accordance with the Act. The staff finds that, after the change of control, the Transferee will be qualified to use byproduct material for the purpose requested, and will continue to have the equipment, facilities, and procedures needed to protect public health and safety, and promotes the security of licensed material.

REGULATORY FRAMEWORK

Superior Bowen Asphalt Company, LLC, License No. 24-26162-01, was issued under 10 CFR Part 30, Rules of General Applicability to Domestic Licensing of Byproduct Material. 10 CFR 30.34(b)(1) states: "No license issued or granted pursuant to the regulations in this part and parts 31 through 36, and 39 nor any right under a license shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of the Act and shall give

its consent in writing.” The Commission is required by 10 CFR 30.34 to determine if the change of control is in accordance with the provisions of the Act and give its consent in writing. The review was completed in accordance with NUREG 1556, Volume 15.

SAFETY AND SECURITY REVIEW

According to data obtained from the NRC’s Licensing Tracking System (LTS), Superior Bowen Asphalt Company, LLC (“Licensee”) has held an NRC’s license since March 23, 1990. The most current licensee’s onsite inspection was conducted by the NRC on July 8, 2010, and no escalated enforcement violations were identified during the inspection. The commitments made by the Licensee (License No. 24-26162-01) and Construction Materials Testing Group, LLC d/b/a CMTG, LLC (“Transferee”) state that the Transferee:

- A. will not change the personnel involved in licensed activities;
- B. will not change the locations, facilities, and equipment authorized in the NRC license;
- C. will not change the radiation safety program authorized in the NRC license; and,
- D. will keep regulatory required surveillance records and decommissioning records.

Transferee is governed and directed by a Board of Directors which owners of Superior Bowen Asphalt Company, LLC who held NRC License No. 24-26162-01 are members. Therefore, for security purposes, Transferee is considered a known entity following the guidance provided by the NRC’s Office of Federal and State Materials and Environmental Management Programs (FSME) ‘Checklist to provide a basis for confidence that radioactive materials will be used as specified on the license’, September 3, 2008 revision. The purpose of this checklist is for the NRC to obtain reasonable assurance from new license applicants or NRC licensees transferring control of licensed activities that the licensed material will be used for its intended purpose and not for malevolent use.

Licensee is not required to have decommissioning financial assurance based on the type and amount of material authorized in License No. 24-26162-01.

DESCRIPTION OF TRANSACTION

The transaction is described in ADAMS accession number ML14092A277. After completion of the merger, Construction Materials Testing Group, LLC d/b/a CMTG, LLC will continue as the licensee and remain in control of all licensed activities under Materials License No. 24-26162-01. The NRC staff finds that the request for consent adequately provides a complete and clear description of the transaction, and is consistent with the guidance provided in Appendix F of NUREG-1556, Volume 15.

TRANSFEREE’S COMMITMENT TO ABIDE BY THE TRANSFEROR’S COMMITMENTS

The NRC staff finds that the commitments and information submitted by Superior Bowen Asphalt Company, LLC, and Construction Materials Testing Group, LLC d/b/a CMTG, LLC, under application dated April 2, 2014, are consistent with the guidance outlined in NUREG 1556, Volume 15.

ENVIRONMENTAL REVIEW

An environmental assessment for this action is not required since this action is categorically excluded under 10 CFR 51.22(c)(14)(xi).

CONCLUSION

The staff has reviewed the request for consent submitted by both parties with regard to the direct change of control of byproduct materials license No. 24-26162-01 and approves the application pursuant to 10 CFR 30.34(b).

The submitted information sufficiently describes the transaction; documents the understanding of the license and commitments; demonstrates that personnel have the experience and training to properly implement and maintain the license and that they will maintain the existing records; and, in the future, will abide by all existing commitments to the license, consistent with the guidance in NUREG-1556, Volume 15.

Therefore, the staff concludes that the proposed change in control would not alter the previous findings, made under 10 CFR Part 30, that licensed operations will not be inimical to the common defense and security, or to the health and safety of the public.